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**Hearing Date: September 20, 2023**

**Hearing Time: 10:00 a.m. (ET)**

*Attorneys for Defendant Natixis S.A.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the  
Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities  
LLC and the Chapter 7 Estate of Bernard L.  
Madoff,

Plaintiff,

v.

NATIXIS S.A. and TENSYS LTD.,

Defendants.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-05353 (CGM)

**NOTICE OF JOINDER IN OBJECTING DEFENDANTS' OPPOSITION  
TO TRUSTEE'S MOTION FOR ORDER AMENDING ORDER  
APPOINTING A DISCOVERY ARBITRATOR PURSUANT TO  
BANKRUPTCY RULE 9019(c) AND GENERAL ORDER M-390**

Defendant Natixis S.A. (“Natixis”), in Adv. Pro. No. 10-05353 (CGM), hereby objects to the *Motion for Order Amending Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390*, filed in Adv. Pro. No. 08-01789 (CGM), ECF Nos. 23449, 23454 (“Trustee’s Motion”), by Irving H. Picard, as trustee for the liquidation of Bernard L. Madoff Investment Securities LLC and the estate of Bernard L. Madoff (“Trustee”), and joins in all aspects of the Opposition to the Trustee’s Motion, ECF No. 23516, filed by Objecting Defendants, except for ¶¶ 8 (second sentence), 19 (third sentence), 32-38 and the final sentence of the *Conclusion* paragraph.

Natixis is a party to one of the adversary proceedings, referred to by the Trustee as the Subsequent Transfer Cases, in which a Case Management Plan has not yet been entered, and as such, the fallback position advocated by Objecting Defendants in their Opposition – that, at a minimum, the Court deny the Trustee’s Motion only with respect to adversary proceedings with previously entered Case Management Plans that (1) provide for mandatory discovery arbitration and (2) cite the existing Order Appointing Discovery Arbitrator<sup>1</sup> – would not be adequate to protect the rights of Natixis, which is in all other relevant respects identically situated to Objecting Defendants.

Because the Trustee has failed to justify the modification to the Order Appointing Discovery Arbitrator he seeks, under either Rule 60(b)(5) or Rule 60(b)(6), the Trustee’s Motion should be denied in its entirety as to all defendants who are parties to the Subsequent Transfer Cases.

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<sup>1</sup> Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390, *Secs. Inv’r Prot. Corp. v. Bernard L. Madoff Inv. Secs.*, No. 08-01789 (CGM) (Bankr. S.D.N.Y. Oct. 4, 2016), ECF No. 14227 (“Order Appointing Discovery Arbitrator”).

Dated: September 6, 2023  
New York, New York

**DAVIS+GILBERT LLP**

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